## Case 2:05-cv-00269-MWL Document 26 Filed 10/10/06

## UNITED STATES DISTRICT COURT

## EASTERN DISTRICT OF WASHINGTON

```
GARY A. FRY,

Plaintiff,

ORDER GRANTING DEFENDANT'S

V.

MOTION FOR RELIEF FROM

JUDGMENT PURSUANT TO

JO ANNE B. BARNHART,

Commissioner of Social

Security,

Defendant.

Defendant.
```

BEFORE THE COURT is Defendant's October 3, 2006 motion, pursuant to Fed. R. Civ. P. 60(a), to correct the Court's Order issued on August 11, 2006. (Ct. Rec. 24).

On August 11, 2006, the Court granted Plaintiff's Motion for Summary Judgment (Ct. Rec. 11) and remanded the matter for an immediate award of benefits. (Ct. Rec. 22). In the body of its order, the Court referred to Plaintiff's application for Disability Insurance Benefits ("DIB") as being protectively filed on May 22, 2001. (Ct. Rec. 22, p. 2). The Court indicated that the remand of the case pertained only to Plaintiff's May 22, 2001 application which was properly appealed following its denial on reconsideration. (Ct. Rec. 22, p. 2).

Nevertheless, as stipulated by the parties in the instant motion, Plaintiff's application for DIB (AR 91-94) was dated May 22, 2002, not May 22, 2001. (Ct. Rec. 25, p. 2). Accordingly, as agreed by the parties, the Court's order of remand for an immediate award of benefits should be amended to pertain to Plaintiff's DIB application dated May 22, 2002.

Based on the foregoing, the Court hereby Orders as follows:

- 1. Defendant's Motion For Relief From Judgment Pursuant to Fed. R. Civ. P. 60(a) (Ct. Rec. 24) is GRANTED.
- 2. This Court's August 11, 2006 order of remand for an immediate award of benefits (Ct. Rec. 22) is hereby AMENDED changing all references to Plaintiff's DIB application date of May 22, 2001 to May 22, 2002.
- 3. The District Court Executive is directed to enter this Order and provide a copy to counsel for Plaintiff and Defendant.

IT IS SO ORDERED.

**DATED** this  $10^{th}$  day of October, 2006.

s/Michael W. Leavitt

MICHAEL W. LEAVITT

UNITED STATES MAGISTRATE JUDGE